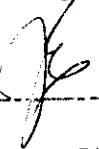


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.
05 JUN -7 PM 3:49

Robert R. Di Trollo
CLERK, U.S. DIST. CT.
W. D. OF TN, MEMPHIS

PHILLIP LACEFIELD,

Plaintiff,

v.

No. 05-2233 BP

THE NEW YORK TIMES, et al.,

Defendants.


ORDER DENYING PLAINTIFF'S EX PARTE MOTION FOR
SUMMARY JUDGMENT AGAINST U.S. DISTRICT COURT CLERK

Phillip Lacefield, a pro se Plaintiff, filed a motion on May 27, 2005 seeking summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure against a non-party, Robert Di Trollo, the United States District Court Clerk, for his alleged failure to accomplish service on several Defendants and failure to correct the Court's docket sheet as requested in Plaintiff's earlier motion. Rule 56 allows a "party seeking to recover upon a claim" to move with or without supporting affidavits for summary judgment in the party's favor. Fed. R. Civ. P. 56(a). However, the Rule does not provide for a procedure by which a party could move for summary judgment against a person who is not a party to the action and against whom no claim has been asserted. See State of Maryland v. Acme Poultry Corp., 9 F.R.D. 687, 688-89 (D. Del. 1949) (denying defendant's motion for summary judgment because the insurance carrier was not a party plaintiff). Inasmuch as Di Trollo is not a party against whom a claim has been made in this action, the Court DENIES Plaintiff's motion for summary judgment.

This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 6-8-05

(7)

IT IS SO ORDERED this 7th day of June, 2005.



J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 7 in case 2:05-CV-02233 was distributed by fax, mail, or direct printing on June 8, 2005 to the parties listed.

Phillip Lacefield
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18183-076
P.O. Box 3000
Forrest City, AR 72336--300

Honorable J. Breen
US DISTRICT COURT